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October 28, 2012

VIA EMAIL

United States District Judge Andrew L. Carter, Jr.
United States District Court
Southern District of New York
500 Pearl Street, Room 725
New York, NY 10007
ALCarterNYSDChambers@nysd.uscourts.gov

Re: **G Investors Holding LLC v. Lincoln Benefit Life Company Inc.**
(USDC, SDNY, No. 09-cv-02980)

Dear Judge Carter:

This firm represents Lincoln Benefit Life Company Inc. ("Lincoln") in the above-referenced action. We write in furtherance of our letter sent to Your Honor a short while ago requesting a postponement of the commencement of the trial at bar, and in response to the email of plaintiff's counsel, Derek Zisser.

Since we emailed Your Honor, we have confirmed that one of our witnesses, Stan Shelley, who resides in Salt Lake City, Utah, will not be in New York until the storm passes. As to the status of Lincoln's second witness, Vicki Hansen, we have confirmed that she arrived in New York a short time ago and, due to what appears will be a one or two day delay, at a minimum, she is turning around and flying back to Nebraska to attend to her family obligations there. Mr. Shelley and Ms. Hansen will do their utmost to come to New York as soon as they can, once we all know when the Court will re-open and when the Court will direct the trial to commence.

With respect to plaintiff's objection to "any adjournment of the trial", to state the obvious, Lincoln is not responsible for this unfortunate force majeure. As noted in Lincoln's previous letter, while Lincoln remains ready to proceed, that the burden and prejudice of the scheduling problems due to the impending storm will be disproportionately borne by Lincoln's witnesses and client representative, cannot be denied. Moreover, notwithstanding Mr. Zisser's boilerplate contention that plaintiff will be prejudiced, Mr. Zisser has not articulated any specific prejudice that his client may suffer – because he cannot. His client representatives do not have to



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travel to/from Salt Lake City, Utah, Lincoln, Nebraska, or Chicago, Illinois. Without exception, all of plaintiff's witnesses and client representatives are located in New York. Hence, to the extent that any party suffers prejudice, it is Lincoln.

Finally, we find Mr. Zisser's statement that plaintiff's attorneys are unavailable on November 7 perplexing and disingenuous, as, according to plaintiff's own five day trial estimation, the trial is certain to continue through November 7, regardless of when the trial commences after tomorrow, if it commences later this week. We respectfully await word from the Court and will be prepared to proceed as the Court directs.

We thank the Court for its consideration of this matter and hope that everyone remains safe through the storm.

Respectfully submitted,

SEYFARTH SHAW LLP

A handwritten signature in blue ink that reads "Elizabeth D. Schrero".

Elizabeth D. Schrero

cc: Dennis D'Antonio, Esq. (by email)
Derek M. Zisser, Esq. (by email)
Richard M. Resnik, Esq. (by email)
Jay W. Cho, Esq. (by email)

